

**United States Department of Labor
Employees' Compensation Appeals Board**

R.A., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Shaker Heights, OH, Employer**

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**Docket No. 17-1472
Issued: December 6, 2017**

Appearances:

Alan J. Shapiro, Esq., for the appellant¹

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 27, 2017 appellant, through counsel, filed a timely appeal from an April 6, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish bilateral carpal tunnel syndrome causally related to the accepted factors of his federal employment.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On December 17, 2013 appellant, then a 54-year-old mail clerk, filed an occupational disease claim (Form CA-2) alleging that he developed a bilateral injury to his arms and hands as a result of factors of his federal employment. He reported that from 1983 to 1992 he worked on the conveyer belt as a mail handler, loading heavy boxes and sacks. Appellant stopped work due to a September 22, 1992 work-related back injury and returned in 1993 to perform limited-duty office clerk work; OWCP assigned File No. xxxxxx782. He performed office work from 1993 to 2009 which involved repetitive activities of filing and typing on a computer. Appellant was then sent for office management systems training on October 21, 2010. He reported first being diagnosed with carpal tunnel syndrome (CTS) on March 14, 2007. Appellant first became aware of his condition and of its relationship to his federal employment duties on October 21, 2010. He further reported that initially he filed a traumatic injury claim (Form CA-1) for his injury because he did not know that it was really an occupational disease claim.³ On the reverse side of the claim form, appellant's supervisor reported that he was no longer on the periodic rolls and that he had retired on January 12, 2011.

By letter dated December 27, 2013, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised of the medical and factual evidence necessary and was afforded 30 days to submit the necessary evidence. No evidence was received within the required time frame.

By decision dated February 10, 2014, OWCP denied appellant's claim finding that the evidence of record failed to establish that the occupational exposure occurred as alleged.

On February 18, 2014 appellant, through counsel, requested a telephone hearing before an OWCP hearing representative.

In support of his hearing request appellant submitted additional evidence. In a March 19, 2007 diagnostic report from Dr. Karen Murata, Board-certified in physical medicine and rehabilitation, related that an electrodiagnostic study revealed findings consistent with median neuropathy of bilateral wrists, and mild bilateral carpal tunnel syndrome.

In a February 19, 2013 work status report, Dr. Steve Huang, Board-certified in nuclear medicine, noted an October 15, 2010 date of injury and diagnosed carpal tunnel syndrome. He provided work restrictions and checked a box marked "yes" indicating that the diagnosed condition was work related.

In a May 14, 2014 industrial work status report, Dr. Bhavesh Pandya, Board-certified in occupational medicine, noted a September 22, 1992 date of injury and provided appellant permanent work restrictions under File No. xxxxxx782.

At the August 13, 2014 hearing, appellant explained that he was initially employed at the employing establishment as a mail handler which required lifting heavy sacks and boxes. After

³ Appellant's traumatic injury claim for carpal tunnel syndrome was denied under File No. xxxxxx334. The record before the Board contains no other information pertaining to this claim.

his 1992 injury, he was placed on light duty and performed office work. Appellant attributed his bilateral CTS to his repetitive employment duties after he began to experience numbness, pain, and tingling in his bilateral upper extremities. He reported that he was first diagnosed with CTS in 2007. Appellant stated that in 2009, the employing establishment informed him that they could no longer provide him with limited duty and sent him for a six-month office management training course. The course involved typing on a computer and his carpal tunnel continued to cause symptoms, for which he sought medical attention and filed this occupational disease claim.

By decision dated October 23, 2014, OWCP's hearing representative affirmed the February 10, 2014 decision, finding that the evidence of record failed to establish that the occupational exposure occurred as alleged. He noted that there were inconsistencies in the evidence as to the time, place, and manner of the alleged injury since appellant had attributed his symptoms to varying causes.

On January, 6, 2015 appellant, through counsel, requested reconsideration of OWCP's decision. Counsel noted submission of medical reports from Dr. Huang not previously considered in support of appellant's claim.

In an October 25, 2010 diagnostic report, Dr. Nazanin Matloubi, a Board-certified neurologist, reported that appellant complained of right hand numbness for the past few years which had worsened during the past two weeks. Electromyography and nerve conduction velocity (EMG/NCV) studies of the right upper extremity performed on that date revealed abnormal findings. Dr. Matloubi noted electrodiagnostic evidence of right median mononeuropathy across the wrist such as seen in carpal tunnel syndrome, mild in degree.

In medical reports dated November 8 and 9, 2010, and February 19, 2013, Dr. Huang noted that appellant reported repetitive use of his arm and hand while typing. Appellant attributed his symptoms to repetitive typing, noting that he developed pain, numbness, and tingling in the right hand. Dr. Huang noted appellant's occupation as a clerical typist which involved prolonged computer work/typing. He reviewed the EMG/NCV study and diagnosed carpal tunnel syndrome. Dr. Huang provided appellant work restrictions and checked a box marked "yes" indicating that the diagnosed condition was work related.

By decision dated March 10, 2015, OWCP affirmed the October 23, 2014 decision, as modified, finding that the evidence of record failed to establish that his diagnosed condition was causally related to the accepted factors of his federal employment. It noted that appellant established fact of injury. However, the medical evidence of record failed to establish a causal relationship between his carpal tunnel syndrome and the accepted factors of his federal employment.

On February 9, 2016 appellant, through counsel, requested reconsideration of OWCP's decision. Counsel noted submission of medical reports from Kaiser Permanente which were not previously considered.

In support of his claim, appellant resubmitted medical evidence previously of record as well as a December 3, 2010 medical report from Dr. Huang virtually identical to his prior reports. Dr. Huang diagnosed carpal tunnel syndrome and provided appellant work restrictions.

By decision dated April 6, 2017, OWCP affirmed the March 10, 2015 decision finding that the evidence of record failed to establish that his diagnosed carpal tunnel syndrome was causally related to the accepted factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁷ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁸

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence supporting such causal relationship.⁹ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of

⁴ *Supra* note 2.

⁵ Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

⁶ Michael E. Smith, 50 ECAB 313 (1999).

⁷ Elaine Pendleton, *supra* note 5.

⁸ See Roy L. Humphrey, 57 ECAB 238, 241 (2005); Ruby I. Fish, 46 ECAB 276, 279 (1994).

⁹ See 20 C.F.R. § 10.110(a); John M. Tornello, 35 ECAB 234 (1983).

medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹⁰

ANALYSIS

OWCP accepted that appellant engaged in repetitive activities of typing in his employment duties as a mail clerk. It denied his claim, however, finding that the evidence of record failed to establish a causal relationship between the accepted employment factors and his bilateral carpal tunnel syndrome.

The Board finds that the medical evidence of record is insufficient to establish that appellant developed bilateral carpal tunnel syndrome causally related to the accepted factors of his federal employment as a mail clerk.

In support of his claim, appellant submitted medical reports dated November 8, 2010 through February 19, 2013 from Dr. Huang who documented treatment for his carpal tunnel syndrome. Dr. Huang's reports lack the specificity and detail needed to establish that appellant's injuries are a result of a work-related occupational exposure.¹¹ While he provided a diagnosis of carpal tunnel syndrome, he failed to provide a fully-rationalized opinion on the cause of appellant's condition. In his reports, Dr. Huang checked a box marked "yes" indicating that the diagnosed condition was work related. The Board has held that a report that addresses causal relationship with a checkmark, without medical rationale explaining how the work condition caused the alleged injury, is of diminished probative value and insufficient to establish causal relationship.¹² Moreover, Dr. Huang failed to sufficiently discuss appellant's employment duties, only generally noting prolonged computer work/typing. While he had some understanding of these employment duties, he failed to detail how long appellant worked as a typist, the number of hours per day spent performing each task, and the frequency of the physical movements which appellant attributes to his injury. Dr. Huang's statement on causation failed to provide a sufficient explanation as to the mechanism of injury pertaining to this occupational disease claim as alleged by appellant, namely, how repetitive typing would cause or aggravate his bilateral carpal tunnel syndrome.¹³ Without explaining how physiologically the movements involved in appellant's employment duties caused or contributed to his diagnosed condition, his opinion on causal relationship is equivocal in nature and of limited probative value.¹⁴

The remaining medical evidence of record is also insufficient to establish appellant's occupational disease claim. Dr. Murata and Dr. Matloubi's diagnostic reports only interpreted

¹⁰ *James Mack*, 43 ECAB 321 (1991).

¹¹ *P.O.*, Docket No. 14-1675 (issued December 3, 2015); *S.R.*, Docket No. 12-1098 (issued September 19, 2012).

¹² *See Calvin E. King, Jr.*, 51 ECAB 394 (2000); *see also Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

¹³ *S.W.*, Docket No. 08-2538 (issued May 21, 2009).

¹⁴ *See L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

imaging studies and provided no opinion on the cause of appellant's injury.¹⁵ The Board has held that diagnostic reports are of limited probative value as they fail to provide an opinion on the causal relationship between appellant's employment duties and the diagnosed conditions.¹⁶ Without any mention of the specific repetitive employment duties, any carpal tunnel findings made could not be related to his claim to establish causal relationship.¹⁷

Dr. Pandya's industrial work status report is also of no probative value as the report was unrelated to this claim and pertained to his prior back injury. Any medical opinion evidence appellant may submit to support his claim should reflect a correct history and offer a medically sound explanation by the physician of how the specific employment factors caused or aggravated his bilateral carpal tunnel syndrome.¹⁸

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.¹⁹ Appellant's honest belief that his occupational employment duties caused his medical injury is not in question, but that belief, however sincerely held, does not constitute the medical evidence necessary to establish causal relationship.²⁰ In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between appellant's federal employment duties as a mail clerk and his diagnosed bilateral carpal tunnel syndrome. Thus, appellant has failed to meet his burden of proof.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish bilateral carpal tunnel syndrome causally related to the accepted factors of his federal employment.

¹⁵ *D.H.*, Docket No. 11-1739 (issued April 18, 2012).

¹⁶ *See S.G.*, Docket No. 17-1054 (issued September 14, 2017).

¹⁷ *S.Y.*, Docket No. 11-1816 (issued March 16, 2012).

¹⁸ *M.R.*, Docket No. 14-11 (issued August 27, 2014).

¹⁹ *D.D.*, 57 ECAB 734 (2006).

²⁰ *See J.S.*, Docket No. 17-0967 (issued August 23, 2017).

ORDER

IT IS HEREBY ORDERED THAT the April 6, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 6, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board